

SECOND REGULAR SESSION

# SENATE BILL NO. 1138

92ND GENERAL ASSEMBLY

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INTRODUCED BY SENATOR BARTLE.

Read 1st time January 22, 2004, and ordered printed.

TERRY L. SPIELER, Secretary.

4154S.01I

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## AN ACT

To repeal sections 211.141, 211.327, 429.032, 429.080, 429.090, 429.120, 429.160, 429.270, 429.460, 429.470, 429.490, 429.540, 452.340, 452.554, 478.725, 488.031, 488.429, 488.445, 488.4014, 488.5320, 491.300, and 595.045, RSMo, and to enact in lieu thereof twenty-three new sections relating to court procedures, with penalty provisions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 211.141, 211.327, 429.032, 429.080, 429.090, 429.120, 429.160, 429.270, 429.460, 429.470, 429.490, 429.540, 452.340, 452.554, 478.725, 488.031, 488.429, 488.445, 488.4014, 488.5320, 491.300, and 595.045 RSMo, are repealed and twenty-three new sections enacted in lieu thereof, to be known as sections 211.141, 211.327, 429.032, 429.080, 429.090, 429.120, 429.160, 429.270, 429.460, 429.470, 429.490, 429.540, 452.340, 452.554, 476.800, 476.810, 476.820, 488.031, 488.429, 488.445, 488.4014, 488.5320, and 595.045, to read as follows:

211.141. 1. When a child is taken into custody as provided in section 211.131, the person taking the child into custody shall, unless it has been otherwise ordered by the court, return the child to his parent, guardian or legal custodian on the promise of such person to bring the child to court, if necessary, at a stated time or at such times as the court may direct. The court may also impose other conditions relating to activities of the child. If these additional conditions are not met, the court may order the child detained as provided in section 211.151. If additional conditions are imposed, the child shall be notified that failure to adhere to the conditions may result in the court imposing more restrictive conditions or ordering the detention of the child. If the person taking the child into custody believes it desirable, he may request the parent, guardian or legal custodian to sign a written promise to bring the child into court and acknowledging any additional conditions imposed on the child.

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

2. If the child is not released as provided in subsection 1 of this section, he may be conditionally released or detained in any place of detention specified in section 211.151 but only on order of the court specifying the reason for the conditional release or the detention. The parent, guardian or legal custodian of the child shall be notified of the terms of the conditional release or the place of detention as soon as possible.

3. The juvenile officer may conditionally release or detain a child for a period not to exceed twenty-four hours if it is impractical to obtain a written order from the court because of the unreasonableness of the hour or the fact that it is a Sunday or holiday. The conditional release shall be as provided in subsection 1 of this section, and the detention shall be as provided in section 211.151. A written record of such conditional release or detention shall be kept and a report in writing filed with the court. In the event that the judge is absent from his circuit, or is unable to act, the approval of another circuit judge of the same or adjoining circuit must be obtained as a condition or continuing the conditional release or detention of a child for more than twenty-four hours.

4. In any matter referred to the juvenile court pursuant to section 211.031, the juvenile officer shall make [an] **a risk and needs** assessment of the child and, before the disposition of the matter, shall report the results of the assessment to the juvenile court. The assessment shall be written on a standardized form developed and provided by the [division of youth services] **office of state courts administrator**.

5. The division, in cooperation with juvenile officers and juvenile courts, shall at least biennially review a random sample of assessments of children and the disposition of each child's case to recommend assessment and disposition equity throughout the state. Such review shall identify any evidence of racial disparity in certification. Such review shall be conducted in a manner which protects the confidentiality of the cases examined.

211.327. The juvenile court shall :

(1) Provide to the state courts administrator **the results from the risk and needs assessment and the** outcome data for youth receiving formal and informal services on forms developed by the state courts administrator;

(2) Require new juvenile court professional personnel to have orientation training as provided in section 211.326;

(3) Require existing professional personnel to have continuing education as provided in section 211.326.

429.032. 1. When multiple lots, tracts or parcels are the subject of one mechanic's lien created by virtue of sections 429.010 to 429.340, it shall be permissible for every mechanic or other person who has a lien upon such multiple lots, tracts or parcels to release one or more of the lots, tracts or parcels from the mechanic's lien. The lots, tracts or parcels released, and the amount of mechanic's lien debt attributable to such lot, tract or parcel so

released shall be specified by the mechanic's lien claimant.

2. Whenever a mechanic's lien filed upon multiple lots, tracts or parcels is partially released as to one or more of the lots, tracts or parcels, it shall be the duty of the mechanic's lien claimant to acknowledge upon the record or the margin thereof, in the office of the clerk [of the circuit court] **recorder of deeds clerk**, the portion of the mechanic's lien debt that is satisfied and the lots, tracts or parcels which are being released. The acknowledgment shall be sufficient if filed with the [clerk of the circuit court] **recorder of deeds** in the following form:

PARTIAL RELEASE OF MECHANIC'S LIEN

STATE OF MISSOURI)

)SS.

COUNTY OF )

COMES NOW ....., (name of lien claimant) the lien claimant and does hereby partially release its mechanic's lien filed on ....., (date lien filed) and filed for record as lien number ..... (lien number or book and page numbers)

The amount of the original mechanic's lien debt is \$ .....

The amount of the original mechanic's lien debt which is now satisfied is \$ .....

.

The lots, tracts or parcels which are being released are more fully described as follows:

(Legal description of lots, tracts or  
parcels which are being released)

.....

Lien Claimant

By.....

(Signature of authorized  
representative)

(FOR INDIVIDUAL LIEN CLAIMANT)

On this ..... day of ....., 20...., before me personally appeared ....., to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he/she executed the same as his/her free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the county and state aforesaid, the day and year first above written.

.....

Notary Public

My commission expires:

.....

OR

(FOR CORPORATE LIEN CLAIMANT)

On this ..... day of ....., 20....., before me personally appeared ....., to me personally known, who, being by me duly sworn, did say that he is the ..... of ....., a Missouri corporation, and that the seal affixed to the foregoing corporation, and that the seal affixed to the foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed on behalf of said corporation by authority of its board of directors; and said ..... acknowledged said instrument to be the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the county and state aforesaid, the day and year first above written.

.....  
Notary Public

My commission expires:

.....

429.080. It shall be the duty of every original contractor, every journeyman and day laborer, and every other person seeking to obtain the benefit of the provisions of sections 429.010 to 429.340, within six months after the indebtedness shall have accrued to file with the [clerk of the circuit court] **recorder of deeds** of the proper county a just and true account of the demand due him or them after all just credits have been given, which is to be a lien upon such building or other improvements, and a true description of the property, or so near as to identify the same, upon which the lien is intended to apply, with the name of the owner or contractor, or both, if known to the person filing the lien, which shall, in all cases, be verified by the oath of himself or some credible person for him.

429.090. It shall be the duty of the [clerk of the circuit court] **recorder of deeds** to endorse upon every account the date of its filing, and maintain an abstract thereof, containing the date of its filing, the name of the person seeking to enforce the lien, the amount claimed, the name of the person against whose property the lien is filed, and a description of the property charged with the same.

429.120. Whenever any debt, which is a lien upon any building or other improvement, shall be paid or satisfied, the creditor, if required, shall file an acknowledgment of such satisfaction with the [clerk of the circuit court] **recorder of deeds**.

429.160. Any two or more persons having filed in the [clerk's] **recorder of deeds'** office mechanics' liens may assign to each other or to any other person all their right, title and interest in and to such mechanics' liens, and the assignee thereof may bring suit in his name and enforce all such assigned liens as fully as if the same had not been assigned.

429.270. Any and all liens in sections 429.010 to 429.340 provided for may be adjudicated and determined and the rights of all parties interested in the same and in the

property and of any of the property against which the same is claimed may be adjudicated, determined and enforced in one action which may be brought by any such lien claimant after the statement for such lien is filed in the office of the [clerk of court] **recorder of deeds**, as herein provided, or such action may be brought by any owner or lessee of the property or any of it to be affected, or mortgagee or holder of any other encumbrance thereon. Such action shall be an equitable action for the purpose of determining the various rights, interest and liens of the various mechanics' lien claimants and claimants of other liens and owner of any interest in or leasehold upon said property and for enforcing the rights of any and all such persons in, to or against the property, being the lands and buildings and either of the same and for sale of such property, land and buildings or either of the same and for marshalling and distribution of the proceeds thereof among the parties according to their respective legal and equitable rights therein. Such action shall be an equitable action for the purpose of determining, establishing and enforcing the various and respective rights of the parties thereto and for the purpose of marshaling, applying and distributing the proceeds of the sale of such property that may be ordered and decreed in said action.

429.460. It shall be the duty of all persons claiming the benefit of such lien, within ninety days next after the completion of the work, or after the materials are furnished, to file in the office of the [circuit clerk] **recorder of deeds** of any county through which said railroad is located a just and true account of the amount due after all just credits have been given, which account shall state the amount claimed as due, the general nature of the work, amount of labor performed or of materials furnished, the dates when the work was done and when materials were furnished, and the place or places at which said labor and work was performed or said materials were furnished, the name or names of the parties with whom the contract for said work or furnishing said materials was made, and also the name of the railroad against which said lien is intended to apply; and it shall be the duty of all persons claiming said lien, within said ninety days, to serve a copy of the above account on the person or corporation owning or operating or having charge of said road or of the property to which said lien attaches, which said copy of account may be served in the same manner as now provided by law for the service of summons on corporations.

429.470. It shall be the duty of the [circuit clerk] **recorder of deeds** to endorse upon every account the date of its filing, and maintain an abstract thereof, containing the date of its filing, the name of the person seeking to enforce the lien, the amount claimed, and the name of the railroad against which the lien is filed; and it shall be the duty of [circuit clerks] **the recorder of deeds** in whose office such accounts and liens may be filed, within five days thereafter, to forward to the secretary of state a true copy of said accounts and liens [and judgments rendered thereon by the circuit courts in which the case has been tried]. **It shall be the duty of the judgment creditor in an action filed pursuant to section 429.520**

**to forward to the secretary of state a certified copy of the judgment.**

429.490. Whenever any debt, which is a lien upon any building or other improvement, shall be paid and satisfied, the creditor, if required, shall file an acknowledgment of such satisfaction with the [clerk of the circuit court] **recorder of deeds**, which satisfaction shall be certified by the [clerk] **recorder** to the secretary of state within ten days after the same has been entered upon the records in his office; and the [clerks of the circuit courts] **recorder of deeds** and the secretary of state shall receive as full compensation for services performed by them as is provided for under this chapter for mechanics' liens.

429.540. In all cases where judgments have been rendered and a sale has been ordered, and the property sold to which said liens attach, the proceeds arising from such sale, if not sufficient to discharge all the liens on which judgments have been rendered before such sale shall be made, shall be distributed pro rata upon such judgments as if the filing of the said liens had been all the same date; and when such judgments have been by such sales or otherwise wholly or partially paid, and satisfied, the [clerks] **recorder** shall enter upon the records the amount or amounts so paid, with a correct description of the real property sold, and within the time and in like manner certify the same to the secretary of state, as heretofore provided.

452.340. 1. In a proceeding for dissolution of marriage, legal separation or child support, the court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the support of the child, including an award retroactive to the date of filing the petition, without regard to marital misconduct, after considering all relevant factors including:

- (1) The financial needs and resources of the child;
- (2) The financial resources and needs of the parents;
- (3) The standard of living the child would have enjoyed had the marriage not been dissolved;
- (4) The physical and emotional condition of the child, and the child's educational needs;
- (5) The child's physical and legal custody arrangements, including the amount of time the child spends with each parent and the reasonable expenses associated with the custody or visitation arrangements; and
- (6) The reasonable work-related child care expenses of each parent.

2. The obligation of the parent ordered to make support payments shall abate, in whole or in part, for such periods of time in excess of thirty consecutive days that the other parent has voluntarily relinquished physical custody of a child to the parent ordered to pay child support, notwithstanding any periods of visitation or temporary physical and legal or physical or legal custody pursuant to a judgment of dissolution or legal separation or any

modification thereof. In a IV-D case, the division of child support enforcement may determine the amount of the abatement pursuant to this subsection for any child support order and shall record the amount of abatement in the automated child support system record established pursuant to chapter 454, RSMo. If the case is not a IV-D case and upon court order, the circuit clerk shall record the amount of abatement in the automated child support system record established in chapter 454, RSMo.

3. Unless the circumstances of the child manifestly dictate otherwise and the court specifically so provides, the obligation of a parent to make child support payments shall terminate when the child:

- (1) Dies;
- (2) Marries;
- (3) Enters active duty in the military;
- (4) Becomes self-supporting, provided that the custodial parent has relinquished the child from parental control by express or implied consent;
- (5) Reaches age eighteen, unless the provisions of subsection 4 or 5 of this section apply; or
- (6) Reaches age twenty-two, unless the provisions of the child support order specifically extend the parental support order past the child's twenty-second birthday for reasons provided by subsection 4 of this section.

4. If the child is physically or mentally incapacitated from supporting himself and insolvent and unmarried, the court may extend the parental support obligation past the child's eighteenth birthday.

5. If when a child reaches age eighteen, the child is enrolled in and attending a secondary school program of instruction, the parental support obligation shall continue, if the child continues to attend and progresses toward completion of said program, until the child completes such program or reaches age twenty-one, whichever first occurs. If the child is enrolled in an institution of vocational or higher education not later than October first following graduation from a secondary school or completion of a graduation equivalence degree program and so long as the child enrolls for and completes at least twelve hours of credit each semester, not including the summer semester, at an institution of vocational or higher education and achieves grades sufficient to reenroll at such institution, the parental support obligation shall continue until the child completes his or her education, or until the child reaches the age of twenty-two, whichever first occurs. To remain eligible for such continued parental support, at the beginning of each semester the child shall submit to each parent a transcript or similar official document provided by the institution of vocational or higher education which includes the courses the child is enrolled in and has completed for each term, the grades and credits received for each such course, and an official document

from the institution listing the courses which the child is enrolled in for the upcoming term and the number of credits for each such course. If the circumstances of the child manifestly dictate, the court may waive the October first deadline for enrollment required by this subsection. If the child is enrolled in such an institution, the child or parent obligated to pay support may petition the court to amend the order to direct the obligated parent to make the payments directly to the child. As used in this section, an "institution of vocational education" means any postsecondary training or schooling for which the student is assessed a fee and attends classes regularly. "Higher education" means any junior college, community college, college, or university at which the child attends classes regularly. A child who has been diagnosed with a learning disability, or whose physical disability or diagnosed health problem limits the child's ability to carry the number of credit hours prescribed in this subsection, shall remain eligible for child support so long as such child is enrolled in and attending an institution of vocational or higher education, and the child continues to meet the other requirements of this subsection. A child who is employed at least fifteen hours per week during the semester may take as few as nine credit hours per semester and remain eligible for child support so long as all other requirements of this subsection are complied with.

6. The court shall consider ordering a parent to waive the right to claim the tax dependency exemption for a child enrolled in an institution of vocational or higher education in favor of the other parent if the application of state and federal tax laws and eligibility for financial aid will make an award of the exemption to the other parent appropriate.

7. The general assembly finds and declares that it is the public policy of this state that frequent, continuing and meaningful contact with both parents after the parents have separated or dissolved their marriage is in the best interest of the child except for cases where the court specifically finds that such contact is not in the best interest of the child. In order to effectuate this public policy, a court with jurisdiction shall enforce visitation, custody and child support orders in the same manner. A court with jurisdiction may abate, in whole or in part, any past or future obligation of support and may transfer the physical and legal or physical or legal custody of one or more children if it finds that a parent has, without good cause, failed to provide visitation or physical and legal or physical or legal custody to the other parent pursuant to the terms of a judgment of dissolution, legal separation or modifications thereof. The court shall also award, if requested and for good cause shown, reasonable expenses, attorney's fees and court costs incurred by the prevailing party.

8. The Missouri supreme court shall have in effect a rule establishing guidelines by which any award of child support shall be made in any judicial or administrative proceeding. Said guidelines shall contain specific, descriptive and numeric criteria which will result in a computation of the support obligation. The guidelines shall address how the



amount of child support shall be calculated when an award of joint physical custody results in the child or children spending substantially equal time with both parents. Not later than October 1, 1998, the Missouri supreme court shall publish child support guidelines and specifically list and explain the relevant factors and assumptions that were used to calculate the child support guidelines. Any rule made pursuant to this subsection shall be reviewed by the promulgating body not less than once every ~~[three]~~ **four** years to ensure that its application results in the determination of appropriate child support award amounts.

9. There shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of the guidelines established pursuant to subsection 8 of this section is the correct amount of child support to be awarded. A written finding or specific finding on the record in a judicial or administrative proceeding that the application of the guidelines would be unjust or inappropriate in a particular case, after considering all relevant factors, including the factors set out in subsection 1 of this section, is required if requested by a party and shall be sufficient to rebut the presumption in the case. The written finding or specific finding on the record shall detail the specific relevant factors that required a deviation from the application of the guidelines.

10. Pursuant to this or any other chapter, when a court determines the amount owed by a parent for support provided to a child by another person, other than a parent, prior to the date of filing of a petition requesting support, or when the director of the division of child support enforcement establishes the amount of state debt due pursuant to subdivision (2) of subsection 1 of section 454.465, RSMo, the court or director shall use the guidelines established pursuant to subsection 8 of this section. The amount of child support resulting from the application of the guidelines shall be applied retroactively for a period prior to the establishment of a support order and the length of the period of retroactivity shall be left to the discretion of the court or director. There shall be a rebuttable presumption that the amount resulting from application of the guidelines under subsection 8 of this section constitutes the amount owed by the parent for the period prior to the date of the filing of the petition for support or the period for which state debt is being established. In applying the guidelines to determine a retroactive support amount, when information as to average monthly income is available, the court or director may use the average monthly income of the noncustodial parent, as averaged over the period of retroactivity, in determining the amount of presumed child support owed for the period of retroactivity. The court or director may enter a different amount in a particular case upon finding, after consideration of all relevant factors, including the factors set out in subsection 1 of this section, that there is sufficient cause to rebut the presumed amount.

11. The obligation of a parent to make child support payments may be terminated as

follows:

(1) Provided that the child support order contains the child's date of birth, the obligation shall be deemed terminated without further judicial or administrative process when the child reaches age twenty-two if the child support order does not specifically require payment of child support beyond age twenty-two for reasons provided by subsection 4 of this section;

(2) The obligation shall be deemed terminated without further judicial or administrative process when the parent receiving child support furnishes a sworn statement or affidavit notifying the obligor parent of the child's emancipation in accordance with the requirements of subsection 4 of section 452.370, and a copy of such sworn statement or affidavit is filed with the court which entered the order establishing the child support obligation, or the division of child support enforcement;

(3) The obligation shall be deemed terminated without further judicial or administrative process, when the parent paying child support files a sworn statement or affidavit with the court which entered the order establishing the child support obligation, or the division of child support enforcement, stating that the child is emancipated and reciting the factual basis for such statement; which statement or affidavit is served by the court or division on the child support obligee; and which is either acknowledged and affirmed by the child support obligee in writing, or which is not responded to in writing within thirty days of receipt by the child support obligee;

(4) The obligation shall be terminated as provided by this subdivision by the court which entered the order establishing the child support obligation, or the division of child support enforcement, when the parent paying child support files a sworn statement or affidavit with the court which entered the order establishing the child support obligation, or the division of child support enforcement, stating that the child is emancipated and reciting the factual basis for such statement; and which statement or affidavit is served by the court or division on the child support obligee. If the obligee denies the statement or affidavit, the court or division shall thereupon treat the sworn statement or affidavit as a motion to modify the support obligation pursuant to section 452.370 or section 454.496, RSMo, and shall proceed to hear and adjudicate such motion as provided by law; provided that the court may require the payment of a deposit as security for court costs and any accrued court costs, as provided by law, in relation to such motion to modify.

12. The court may enter a judgment terminating child support pursuant to subdivisions (1) to (3) of subsection 11 of this section without necessity of a court appearance by either party. The clerk of the court shall mail a copy of a judgment terminating child support entered pursuant to subsection 11 of this section on both the obligor and obligee parents. The supreme court may promulgate uniform forms for sworn statements and

affidavits to terminate orders of child support obligations for use pursuant to subsection 11 of this section and subsection 4 of section 452.370.

452.554. There is established in the state treasury a special fund to be known as the "Domestic Relations Resolution Fund". The director of revenue shall credit to and deposit all amounts received pursuant to section 452.552 to the fund. The general assembly shall appropriate moneys annually from the domestic relations resolution fund to the state courts administrator to pay the cost associated with the handbook created in section 452.556, **to provide services to support domestic relations cases** and to reimburse local judicial circuits for the costs associated with [the implementation of and creation of] education programs for parents of children, alternative dispute resolution programs and similar programs applicable to domestic relations cases. The provisions of section 33.080, RSMo, shall not apply to the domestic relations resolution fund.

**476.800. As used in sections 46.800 to 476.850, the following terms shall mean:**

(1) **"Non-English speaking person", any person involved in a legal proceeding who cannot readily speak or understand the English language, but does not include persons who are deaf or have a hearing disability;**

(2) **"Appointing authority", any court required to provide an interpreter;**

(3) **"Court proceeding", any proceeding before a court of record;**

(4) **"Qualified interpreter", an impartial and unbiased person who is readily able to render a complete and accurate interpretation or translation of spoken and written English for non-English speaking persons and of non-English oral or written statements into spoken English.**

**476.810. 1. The courts shall appoint qualified interpreters and translators in all legal proceedings in which the non-English speaking person is a party or a witness.**

**2. The appointing authority shall appoint a qualified interpreter to assist the non-English speaking parent, guardian, or custodian of a juvenile brought before the court.**

**3. The court may accept a waiver of the right to a qualified interpreter by a non-English speaking person at any point in the court proceeding if the court advises the person of the nature and effect of the waiver and determines that the waiver has been made knowingly, intelligently, and voluntarily.**

**4. The non-English speaking person may retract his or her waiver and request that a qualified interpreter shall be appointed.**

**5. An interpreter shall take an oath that he or she will make a true interpretation to the party or witness in a language that the party or witness understands and that he or she will make a true interpretation of the party or**

witness' answers to questions to counsel, court, or jury, in the English language, with his or her best skill and judgment. The interpreter shall not give explanations or legal advice, or express personal opinions.

6. An interpreter or translator cannot be compelled to testify as to the information that would otherwise be protected by attorney-client privilege as between the party and his or her attorney.

476.820. 1. Interpreters and translators in civil, juvenile, and criminal proceedings shall be allowed a reasonable fee approved by the court and necessary travel expenses not to exceed state rates. Interpreters shall not be compensated for travel time.

2. If the person requiring an interpreter or translator during the proceeding is a party to or a witness in any criminal proceeding, such fees and expenses shall be payable by the state from funds appropriated for such purpose.

488.031. 1. In addition to other fees authorized by law, the clerk of each court shall collect the following fees on the filing of any civil or criminal action or proceeding, including an appeal, except that no fee shall be imposed pursuant to this section on any case that is filed charging traffic violations except alcohol-related offenses:

Supreme court and [courts] <b>court</b> of appeals	\$20.00;
Circuit [courts] <b>division</b>	\$10.00;
Associate [circuit courts] <b>and probate divisions</b>	\$8.00; and
Small claims courts	No additional fee

2. Court filing surcharges pursuant to this section shall be collected in the same manner as other fees, fines, or costs in the case. The amounts so collected shall be paid by the clerk to the office of the state courts administrator and credited to the special fund designated as the basic civil legal services fund. However, the additional fees prescribed by this section shall not be collected when a criminal proceeding or defendant has been dismissed by the court or when costs are waived or are to be paid by the state, county, municipality, or other political subdivision of this state.

488.429. 1. Moneys collected pursuant to section 488.426 shall be payable to the judges of the circuit court, en banc, of the county from which such surcharges were collected, or to such person as is designated by local circuit court rule as treasurer of said fund, and said fund shall be applied and expended under the direction and order of the judges of the circuit court, en banc, of any such county for the maintenance and upkeep of the law library maintained by the bar association in any such county, or such other law library in any such county as may be designated by the judges of the circuit court, en banc, of any such county; provided, that the judges of the circuit court, en banc, of any such county, and the officers of all courts of record of any such county, shall be entitled at all reasonable times to use the

library to the support of which said funds are applied.

2. In [any county of the first classification without a charter form of government and with a population of at least two hundred thousand] **addition**, such fund may also be applied and expended for that county's or circuit's family services and justice fund[.

3. In any county of the third classification without a township form of government and with more than forty thousand eight hundred but less than forty thousand nine hundred inhabitants, in any county of the third classification without a township form of government and with more than forty thousand four hundred but less than forty thousand five hundred inhabitants, in any county of the third classification without a township form of government and with more than thirteen thousand four hundred but less than thirteen thousand five hundred inhabitants, in any county of the third classification without a township form of government and with more than thirteen thousand five hundred but less than thirteen thousand six hundred inhabitants, in any county of the third classification without a township form of government and with more than twenty-three thousand two hundred fifty but less than twenty-three thousand three hundred fifty inhabitants, in any county of the third classification without a township form of government and with more than eleven thousand seven hundred fifty but less than eleven thousand eight hundred fifty inhabitants, in any county of the third classification without a township form of government and with more than thirty-seven thousand two hundred but less than thirty- seven thousand three hundred inhabitants, in any county of the fourth classification with more than fifty-five thousand six hundred but less than fifty-five thousand seven hundred inhabitants, or in any county of the first classification with more than ninety-three thousand eight hundred but less than ninety-three thousand nine hundred inhabitants, such fund] **or** may also be applied and expended for courtroom renovation and technology enhancement [in those counties].

488.445. 1. The governing body of any county, or of any city not within a county, by order or ordinance [to be effective prior to January 1, 2001,] may impose a fee upon the issuance of a marriage license and may impose a surcharge upon any civil case filed in the circuit court. The surcharge shall not be charged when costs are waived or are to be paid by the state, county or municipality.

2. The fee imposed upon the issuance of a marriage license shall be five dollars, shall be paid by the person applying for the license and shall be collected by the recorder of deeds at the time the license is issued. The surcharge imposed upon the filing of a civil action shall be two dollars, shall be paid by the party who filed the petition and shall be collected and disbursed by the clerk of the court in the manner provided by sections 488.010 to 488.020. Such amounts shall be payable to the treasuries of the counties from which such surcharges were paid.

3. At the end of each month, the recorder of deeds shall file a verified report with the

county commission of the fees collected pursuant to the provisions of subsection 2 of this section. The report may be consolidated with the monthly report of other fees collected by such officers. Upon the filing of the reports the recorder of deeds shall forthwith pay over to the county treasurer all fees collected pursuant to subsection 2 of this section. The county treasurer shall deposit all such fees upon receipt in a special fund to be expended only to provide financial assistance to shelters for victims of domestic violence as provided in sections 455.200 to 455.230, RSMo.

488.4014. 1. A fee of ten dollars shall be assessed in all cases in which the defendant [is convicted] **pleads guilty or is found guilty** of [violating] **a non-felony violation** of any provision of chapters 252, 301, 302, 304, 306, 307 and 390, RSMo, and any infraction otherwise provided by law, **a fee of twenty-five dollars shall be assessed** in all misdemeanor cases otherwise provided by law **in which the defendant pleads guilty or is found guilty**, and **a fee of seventy-five dollars shall be assessed** in all felony cases **in which the defendant pleads guilty or is found guilty**, in criminal cases including violations of any county ordinance or any violation of a criminal or traffic law of the state, except that no such fees shall be collected in any proceeding in any court when the proceeding or the defendant has been dismissed by the court or when costs are to be paid by the state, county or municipality. All fees collected under the provisions of this section shall be collected and disbursed in the manner provided by sections 488.010 to 488.020 and payable to the county treasurer who shall deposit those funds in the county treasury.

2. Counties shall be entitled to a judgment in the amount of twenty-five percent of all sums collected, pursuant to this section, on recognizances given to the state in criminal cases, which are or may become forfeited, if not more than five hundred dollars, and fifteen percent of all sums over five hundred dollars, to be paid out of the amount collected.

488.5320. 1. Sheriffs, county marshals or other officers shall be allowed a charge for their services rendered in criminal cases and in all proceedings for contempt or attachment, as required by law, the sum of seventy-five dollars for each felony case or contempt or attachment proceeding, ten dollars for each misdemeanor case, and six dollars for each infraction, excluding cases disposed of by a traffic violations bureau established pursuant to law or supreme court rule. Such charges shall be charged and collected in the manner provided by sections 488.010 to 488.020 and shall be payable to the county treasury.

2. The sheriff receiving any charge pursuant to subsection 1 of this section shall reimburse the sheriff of any other county or the city of St. Louis the sum of three dollars for each pleading, writ, summons, order of court or other document served in connection with the case or proceeding by the sheriff of the other county or city, and return made thereof, to the maximum amount of the total charge received pursuant to subsection 1 of this section.

3. The charges provided in subsection 1 of this section shall be taxed as other costs

in criminal proceedings immediately [after conviction] **upon a plea of guilty or a finding of guilt** of any defendant in any criminal procedure. The clerk shall tax all the costs in the case against such defendant, which shall be collected and disbursed as provided by sections 488.010 to 488.020; provided, that no such charge shall be collected in any proceeding in any court when the proceeding or the defendant has been dismissed by the court; provided further, that all costs, incident to the issuing and serving of writs of scire facias and of writs of fieri facias, and of attachments for witnesses of defendant, shall in no case be paid by the state, but such costs incurred under writs of fieri facias and scire facias shall be paid by the defendant and such defendant's sureties, and costs for attachments for witnesses shall be paid by such witnesses.

4. Mileage shall be reimbursed to sheriffs, county marshals and guards for all services rendered pursuant to this section at the rate prescribed by the Internal Revenue Service for allowable expenses for motor vehicle use expressed as an amount per mile.

595.045. 1. There is established in the state treasury the "Crime Victims' Compensation Fund". A surcharge of seven dollars and fifty cents shall be assessed as costs in each court proceeding filed in any court in the state in all criminal cases including violations of any county ordinance or any violation of criminal or traffic laws of the state, including an infraction and violation of a municipal ordinance; except that no such fee shall be collected in any proceeding in any court when the proceeding or the defendant has been dismissed by the court or when costs are to be paid by the state, county, or municipality. A surcharge of seven dollars and fifty cents shall be assessed as costs in a juvenile court proceeding in which a child is found by the court to come within the applicable provisions of subdivision (3) of subsection 1 of section 211.031, RSMo.

2. Notwithstanding any other provision of law to the contrary, the moneys collected by clerks of the courts pursuant to the provisions of subsection 1 of this section shall be collected and disbursed in accordance with sections 488.010 to 488.020, RSMo, and shall be payable to the director of the department of revenue.

3. The director of revenue shall deposit annually the amount of two hundred fifty thousand dollars to the state forensic laboratory account administered by the department of public safety to provide financial assistance to defray expenses of crime laboratories if such analytical laboratories are registered with the federal Drug Enforcement Agency or the Missouri department of health and senior services. Subject to appropriations made therefor, such funds shall be distributed by the department of public safety to the crime laboratories serving the courts of this state making analysis of a controlled substance or analysis of blood, breath or urine in relation to a court proceeding.

4. The remaining funds collected under subsection 1 of this section shall be denoted to the payment of an annual appropriation for the administrative and operational costs of the

office for victims of crime and, if a statewide automated crime victim notification system is established pursuant to section 650.310, RSMo, to the monthly payment of expenditures actually incurred in the operation of such system. Additional remaining funds shall be subject to the following provisions:

(1) On the first of every month, the director of revenue or the director's designee shall determine the balance of the funds in the crime victims' compensation fund available to satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

(2) Beginning on October 1, 1996, and on the first of each month, if the balance of the funds available exceeds one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the director of revenue or the director's designee shall deposit fifty percent to the credit of the crime victims' compensation fund and fifty percent to the services to victims' fund established in section 595.100;

(3) Beginning on October 1, 1996, and on the first of each month, if the balance of the funds available is less than one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the director of revenue or the director's designee shall deposit seventy-five percent to the credit of the crime victims' compensation fund and twenty-five percent to the services to victims' fund established in section 595.100.

5. The director of revenue or such director's designee shall at least monthly report the moneys paid pursuant to this section into the crime victims' compensation fund and the services to victims fund to the division of workers' compensation and the department of public safety, respectively.

6. The moneys collected by clerks of municipal courts pursuant to subsection 1 of this section shall be collected and disbursed as provided by sections 488.010 to 488.020, RSMo. Five percent of such moneys shall be payable to the city treasury of the city from which such funds were collected. The remaining ninety-five percent of such moneys shall be payable to the director of revenue. The funds received by the director of revenue pursuant to this subsection shall be distributed as follows:

(1) On the first of every month, the director of revenue or the director's designee shall determine the balance of the funds in the crime victims' compensation fund available to satisfy the amount of compensation payable pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055;

(2) Beginning on October 1, 1996, and on the first of each month, if the balance of the



funds available exceeds one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the director of revenue or the director's designee shall deposit fifty percent to the credit of the crime victims' compensation fund and fifty percent to the services to victims' fund established in section 595.100;

(3) Beginning on October 1, 1996, and on the first of each month, if the balance of the funds available is less than one million dollars plus one hundred percent of the previous twelve months' actual expenditures, excluding the immediate past calendar month's expenditures, paid pursuant to sections 595.010 to 595.075, excluding sections 595.050 and 595.055, then the director of revenue or the director's designee shall deposit seventy-five percent to the credit of the crime victims' compensation fund and twenty-five percent to the services to victims' fund established in section 595.100.

7. These funds shall be subject to a biennial audit by the Missouri state auditor. Such audit shall include all records associated with crime victims' compensation funds collected, held or disbursed by any state agency.

8. In addition to the moneys collected pursuant to subsection 1 of this section, the court shall enter a judgment in favor of the state of Missouri, payable to the crime victims' compensation fund, of sixty-eight dollars [if the conviction is] **upon a plea of guilty or finding of guilt** for a class A or B felony; forty-six dollars [if the conviction is] **upon a plea of guilty or finding of guilt** for a class C or D felony; and ten dollars [if the conviction is] **upon a plea of guilty or finding of guilt** for any misdemeanor under [the following] Missouri [laws]:

- (1) Chapter 195, RSMo, relating to drug regulations;
- (2) Chapter 311, RSMo, but relating only to felony violations of this chapter committed by persons not duly licensed by the supervisor of liquor control;
- (3) Chapter 491, RSMo, relating to witnesses;
- (4) Chapter 565, RSMo, relating to offenses against the person;
- (5) Chapter 566, RSMo, relating to sexual offenses;
- (6) Chapter 567, RSMo, relating to prostitution;
- (7) Chapter 568, RSMo, relating to offenses against the family;
- (8) Chapter 569, RSMo, relating to robbery, arson, burglary and related offenses;
- (9) Chapter 570, RSMo, relating to stealing and related offenses;
- (10) Chapter 571, RSMo, relating to weapons offenses;
- (11) Chapter 572, RSMo, relating to gambling;
- (12) Chapter 573, RSMo, relating to pornography and related offenses;
- (13) Chapter 574, RSMo, relating to offenses against public order;

(14) Chapter 575, RSMo, relating to offenses against the administration of justice;

(15) Chapter 577, RSMo, relating to public safety offenses.] **law except for those in chapter 252, RSMo, relating to fish and game, chapter 302, RSMo, relating to drivers' and commercial drivers' license, chapter 303, RSMo, relating to motor vehicle financial responsibility, chapter 304, RSMo, relating to traffic regulations, chapter 306, RSMo, relating to watercraft regulation and licensing, and chapter 307, RSMo, relating to vehicle equipment regulations.** Any clerk of the court receiving moneys pursuant to such judgments shall collect and disburse such crime victims' compensation judgments in the manner provided by sections 488.010 to 488.020, RSMo. Such funds shall be payable to the state treasury and deposited to the credit of the crime victims' compensation fund.

9. [The clerk of the court processing such funds shall maintain records of all dispositions described in subsection 1 of this section and all dispositions where a judgment has been entered against a defendant in favor of the state of Missouri in accordance with this section; all payments made on judgments for alcohol-related traffic offenses; and any judgment or portion of a judgment entered but not collected. These records shall be subject to audit by the state auditor. The clerk of each court transmitting such funds shall report separately the amount of dollars collected on judgments entered for alcohol-related traffic offenses from other crime victims' compensation collections or services to victims collections.

10. The clerks of the court shall report all delinquent payments to the department of revenue by October first of each year for the preceding fiscal year, and such sums may be withheld pursuant to subsection 15 of this section.

11.] The department of revenue shall maintain records of funds transmitted to the crime victims' compensation fund by each reporting court and collections pursuant to subsection [18] **15** of this section and shall maintain separate records of collection for alcohol-related offenses.

[12. Notwithstanding any other provision of law to the contrary, the provisions of subsections 9 and 10 of this section shall expire and be of no force and effect upon the effective date of the supreme court rule adopted pursuant to sections 488.010 to 488.020, RSMo.

13.] **10.** The state courts administrator shall include in the annual report required by section 476.350, RSMo, the circuit court caseloads and the number of crime victims' compensation judgments entered.

[14.] **11.** All awards made to injured victims under sections 595.010 to 595.105 and all appropriations for administration of sections 595.010 to 595.105, except sections 595.050 and 595.055, shall be made from the crime victims' compensation fund. Any unexpended balance remaining in the crime victims' compensation fund at the end of each biennium shall

not be subject to the provision of section 33.080, RSMo, requiring the transfer of such unexpended balance to the ordinary revenue fund of the state, but shall remain in the crime victims' compensation fund. In the event that there are insufficient funds in the crime victims' compensation fund to pay all claims in full, all claims shall be paid on a pro rata basis. If there are no funds in the crime victims' compensation fund, then no claim shall be paid until funds have again accumulated in the crime victims' compensation fund. When sufficient funds become available from the fund, awards which have not been paid shall be paid in chronological order with the oldest paid first. In the event an award was to be paid in installments and some remaining installments have not been paid due to a lack of funds, then when funds do become available that award shall be paid in full. All such awards on which installments remain due shall be paid in full in chronological order before any other postdated award shall be paid. Any award pursuant to this subsection is specifically not a claim against the state, if it cannot be paid due to a lack of funds in the crime victims' compensation fund.

[15.] 12. When judgment is entered against a defendant as provided in this section and such sum, or any part thereof, remains unpaid, there shall be withheld from any disbursement, payment, benefit, compensation, salary, or other transfer of money from the state of Missouri to such defendant an amount equal to the unpaid amount of such judgment. Such amount shall be paid forthwith to the crime victims' compensation fund and satisfaction of such judgment shall be entered on the court record. Under no circumstances shall the general revenue fund be used to reimburse court costs or pay for such judgment. The director of the department of corrections shall have the authority to pay into the crime victims' compensation fund from an offender's compensation or account the amount owed by the offender to the crime victims' compensation fund, provided that the offender has failed to pay the amount owed to the fund prior to entering a correctional facility of the department of corrections.

[16.] 13. All interest earned as a result of investing funds in the crime victims' compensation fund shall be paid into the crime victims' compensation fund and not into the general revenue of this state.

[17.] 14. Any person who knowingly makes a fraudulent claim or false statement in connection with any claim hereunder is guilty of a class A misdemeanor.

[18.] 15. Any gifts, contributions, grants or federal funds specifically given to the division for the benefit of victims of crime shall be credited to the crime victims' compensation fund. Payment or expenditure of moneys in such funds shall comply with any applicable federal crime victims' compensation laws, rules, regulations or other applicable federal guidelines.

[478.725. When any person is, by the statutes of this state, entitled to a lien

for performing any work or labor upon or furnishing any materials, fixtures, engine, boiler or machinery for any building, erection or improvement upon land, or for repairing the same, in Mason or Miller townships, in Marion County, under or by virtue of any contract with the owner or proprietor thereof, or his agent, trustee, contractor or subcontractor, and such person so entitled to such lien, wishing to avail himself of the benefit of said laws, shall file his lien in the office of the clerk of district number 2 of the Marion County circuit court, and not elsewhere.]

[491.300. 1. Interpreters and translators in civil and criminal cases shall be allowed a reasonable fee approved by the court.

2. Such fee shall be payable by the state in criminal cases from funds appropriated to the office of the state courts administrator if the person requiring an interpreter or translator during the court proceeding is a party to or witness in the proceeding.]

Unofficial

Bill

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